

Notice of Allowability

Application No.

09/709,743

Examiner

Lynda M Salvatore

Applicant(s)

ENKLER ET AL.

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the interview held on 01/13/04.
2. ☒ The allowed claim(s) is/are 1-4, 7, 8, 10-23 and 25-36.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

Response to Arguments

1. Applicant's arguments presented during a telephonic interview on January 13th, 2004 have been fully considered and made of record. Applicant's argument with respect to the positioning of Alts insulating composite as shown in figure 10 relative to the positioning of the insulating composite of the instant invention has been found persuasive. Thus, the rejection of claim 1-4,7,8,10-14,17-23 and 25-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alts, US 6,145,617 in view of Klose, US 4,917,750 and further in view of Mahnke et al., US 4,540,717 are hereby withdrawn. Additionally, the objection to allowed claims 15 and 16 as being dependent on a rejected base claim is withdrawn as they now depend directly from allowable independent claim 1. Specifically, the Examiner relied upon figure 10 of the Alts patent and related the water protective fleece layer 28 positioned on the motor face side 11 analogous to the first covering layer of the instant invention. Applicant asserted that instantly claimed said first covering layer is positioned for exposure to an engine compartment thermal environment and what the Examiner is considering analogous to the first covering layer would actually be the second covering layer in the instant invention. In other words, if figure 10 is relied upon, then it is necessary to reverse the order of the layers. For example in figure 10, protective fleece layer 28, which is facing the engine thermal compartment, would actually be analogous to Applicant's claimed first covering layer. However, this arrangement does not meet the limitations of a first covering layer bonded to a flexible duroplastic foam layer because the protective fleece 28 positioned facing the engine compartment, is further joined to microporous stiffening layer 14. Alts does teach that the microporous stiffening layer 14, may either take the form of highly pressed fiber material or an open-pored fiber of a fiber/foam composite, but not a

Art Unit: 1771

flexible duroplastic open-celled foam of melamine resin. Presently, there is no motivation or suggestion to combine references to modify the prior art invention with flexible duroplastic foam.

Allowable Subject Matter

2. The following is an examiner's statement of reasons for allowance: 1-4,7,8,10-23 and 25-36.

As previously set forth in section 4 of the last Office Action, claims 31-36 were indicated as allowable of the prior art of record. The Examiner incorrectly interpreted the soundproofing layer of claim 31 as comprising a plastic foam layer and a particle composite foam layer and indicated allowability based on this incorrect interpretation. However, in view of Applicant's arguments as set forth above, it is the position of the Examiner that claims 31-36 are still allowable over the prior art of Alts. Thus, pending claims 1-4, 7,8,10-23 and 25-36 are allowable since the prior art of Alts fails to teach or fairly suggest a heat-insulating and soundproofing lining comprising in the following order a first covering layer positioned for exposure to an engine compartment thermal environment bonded to a flexible duroplastic open celled foam of melamine resin bonded to a soundproofing layer, and a second covering layer bonded to said composite soundproofing layer. An updated art search did not produce any new substantial art for which to base a rejection no motivation exists to combine references to form an obvious type rejection.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue

Art Unit: 1771

fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

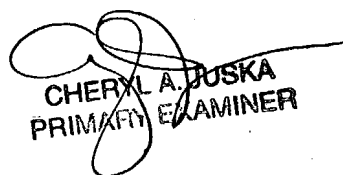
3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda M Salvatore whose telephone number is 571-272-1482. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1482. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

February 16, 2004

ls



CHERYL A. DUSKA
PRIMARY EXAMINER